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October 8, 2021

VIA ELECTRONIC FILING

The Honorable Jocelyn Boyd
Chief Clerk / Executive Director
Public Service Commission of South Carolina
101 Executive Center Drive, Suite 100
Columbia, SC 29210

Re: Cherokee County Cogeneration Partners, LLC v. Duke Energy Carolinas, LLC
and Duke Energy Progress, LLC
Docket No. 2020-263-E

Dear Ms. Boyd:

I am writing on behalf of Duke Energy Carolinas, LLC (“DEC”) to update the Commission on the status of the negotiations between DEC and Cherokee County Cogeneration Partners, LLC (“Cherokee”) for a successor PPA.

On September 23, 2021, following issuance of the Commission’s September 22, 2021 Directive clarifying Order No. 2021-604, DEC circulated a draft successor PPA to Cherokee for review and comment. The PPA reflected the October 2018 rates set forth in DEC’s Late Filed Exhibit per the clear instructions of the Directive. On September 29, 2021, Cherokee and DEC engaged in preliminary discussions regarding the proposed contractual terms. However, Cherokee informed DEC that it was not prepared to engage in more formal negotiations or provide a redline to the PPA until issuance of a Commission Order memorializing the September 22nd Directive. Notwithstanding this delay, DEC is optimistic the parties will be in a position to reach agreement and execute a successor PPA in short order once formal negotiations begin.

In addition to providing a pathway for execution of a successor PPA, Order No. 2021-604 also directed DEC to file “a petition for an accounting and true-up of rates paid from January 1, 2021 until the beginning of the new PPA” between DEC and Cherokee. The Order instructed DEC to file the Petition no later than forty-five days from the issuance of the Order, meaning that the filing deadline is this coming Monday, October 11, 2021.



Because the parties have not yet executed a successor PPA, DEC is not in a position to calculate a true-up that would encompass the total overpayment to Cherokee from January 1, 2021 until the beginning of the new PPA and, accordingly, will not be in a position to file a Petition with the Commission on October 11, 2021.

Nevertheless, to ensure that the risk of overpayment is properly allocated to Cherokee, DEC withheld \$3 million in payments from Cherokee's August invoice pursuant to Section 12.2 of the 2012 PPA as additional security, as discussed in DEC's letter to the Commission of September 10, 2021. In total, DEC is currently holding security in the amount of \$6 million to cover customer overpayment risk.

In discussions with Cherokee on September 29th, DEC recommended executing the successor PPA by the end of October with the intent of a November 1, 2021 start date, depending on the timing of the Commission's Order memorializing the September 22nd Directive. DEC respectfully suggests that it would be beneficial to all parties for the Commission to set new deadlines for the remaining action items in this proceeding. Specifically, DEC proposes that the following deadlines be included in the order memorializing the September 22nd Directive:

- That the parties must execute a successor PPA by November 1, 2021 or 14 days after the date of the Commission's Order, whichever is later; and
- That DEC must file a petition for an accounting and true-up of rates paid from January 1, 2021 until the beginning date of the new successor PPA by November 15, 2021 or 14 days after execution of the successor PPA, whichever is later.

This letter is provided as an update on the status of the parties' efforts to negotiate a successor PPA and DEC's efforts to obtain appropriate security, and to propose a revised schedule for the execution of a PPA and the filing of a true-up petition.

Yours truly,

Frank R. Ellerbe, III

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